



Town of Lexington, Massachusetts

OFFICE OF SELECTMEN

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Response to Department of Telecommunications & Energy Cable Television Division Questions for Individual Municipalities, CTV 06-1 Dated August 23, 2006:

1. Who initially reviews cable license applications on behalf of the Issuing Authority in deciding whether to begin the licensing process pursuant to 207 C.M.R. § 3.02(2)?

Ans: The Chair of the Communications Advisory Committee (CAC) appoints a subcommittee as initial reviewer, with direction to report back to the CAC within a set time. The CAC subsequently makes a recommendation to the Issuing Authority, which decides whether or not to begin the process. (In Lexington, the Cable Advisory Committee has been assigned additional responsibilities and its name has been changed to reflect this expanded role.)

How soon after receipt of the application does this review begin?

Ans: Typically, within a week after the CAC is notified of receipt of the application by the Board of Selectmen (Lexington's Issuing Authority). However, at the request of Verizon, the Issuing Authority commenced the application process in Lexington pursuant to 207 CMR 3.02(1)(a). The Town then solicited for applications pursuant to 207 CMR 3.03.

2. Has the municipality established a Cable Advisory Committee?

Ans: Yes (see above).

Is this a standing committee?

Ans: Yes.

When is the committee in session?

Ans: The CAC is active all year.

How often does the committee meet?

Ans: The CAC has regular monthly meetings, except for two months in the summer. Special meetings are scheduled whenever necessary.

Questions for Individual Municipalities, CTV 06-1 (continued)

What are the terms of its members?

Ans: Three years, with the possibility of renewal for an additional term.

Who may serve on the committee?

Ans: Any citizen of the Town of good reputation who is willing to commit to the requirements of serving on the CAC.

How soon after a cable license application is submitted to the municipality does the Cable Advisory Committee receive application materials and begin its review?

Ans: Immediately after the Issuing Authority receives the application.

3. Does the municipality have a city solicitor or town counsel?

Ans: Lexington has a Town Counsel.

Who represents the municipality in negotiations with the cable license applicant?

Ans: A subcommittee of the CAC, supported by an outside cable attorney.

How soon after a cable license application is submitted to the municipality does the negotiator receive application materials and commence negotiations?

Ans: The CAC receives the application promptly after it is submitted to the Issuing Authority. The Town requests that the applicant provide a copy directly to outside counsel. Once the CAC has reviewed the application, it schedules a negotiating session with the applicant.

Does the negotiator have direct authority to offer final terms that may be included in a license to be executed by the municipality? If not, please describe the steps necessary to authorize proposed term sheets.

Ans: The negotiating committee of the CAC keeps the Issuing Authority informed of the progress of negotiations until the negotiators and the operator agree on the main points of the proposed license with a tentative agreement. The negotiators then bring the terms to the Issuing Authority for its concurrence. If the Issuing Authority agrees, the negotiators notify the operator, any minor final details are corrected, and both parties sign the license.

Just as the Town negotiators have to get concurrence from the Issuing Authority, the applicant's negotiators also have to get approval/concurrence from their clients before an agreement can be finalized.

Questions for Individual Municipalities, CTV 06-1 (continued)

4. Is there any period of time wherein a Mayor or Board of Selectmen lacks authority to execute a contract on behalf of the community? For example, during the time after an election and before the newly elected Mayor takes an oath office, may the out-going Mayor execute a cable license? Please describe the circumstances and the duration of the period.

Ans: There is no time at which the Issuing Authority is unable to execute a contract. Each year one or two members of the five-member Board of Selectmen are up for election. The election is typically held on a Monday, and the new board is constituted on the following day (Tuesday).

5. Many municipalities commented that 90 days is not sufficient to conduct a review of an initial license application. Please state whether there are any provisions of the current licensing process that may be streamlined and, if so, please identify such provisions.

Ans: The members of the CAC are all volunteers, typically with jobs and families. They are committed to carrying out their CAC responsibilities, but need sufficient calendar time to request information from the operator, wait for the operator's response, evaluate the new information, schedule meetings and negotiating sessions, etc. We believe that an arbitrary time limit on the review process would be counterproductive and lead to greater problems to be recognized and corrected at the end of the negotiating process.

6. Please provide a typical timeline of all steps necessary to identify the community's cable-related needs and interests and to issue the issuing authority report or request for proposal? Please include intervals between notices and public hearings, as well as the approximate number of days necessary for each step.

Ans: Lexington currently has granted licenses to two cable operators, and is negotiating with a third. We conducted a major review of the Town's needs and interests prior to negotiating the current renewal license with one operator, but typically conduct informal updates before each license negotiation. We focus on requiring all operators to support community needs (e.g., I-Net, PEG Access, ...). A full needs and interests review can take up to six months. When it is complete, we schedule a public hearing using the Cable Division's guidelines: Initial notice published at least two weeks prior to the hearing and repeated the week prior to the hearing. We typically allow two weeks subsequent to the formal hearing for additional written materials to be submitted before officially adjourning the hearing. We then evaluate the comments received and submit the results to the operator as an element of our negotiating position.

7. Please state the date on which the municipality last conducted a review of its cable-related needs and interests.

Ans: Lexington conducted a full review of its cable-related needs and interests in 2003-2004 under the direction of an outside specialist.

Questions for Individual Municipalities, CTV 06-1 (concluded)

How often is a full review of cable-related needs and interests necessary?

Ans: as stated in answer to Question 6, above, the Town typically conducts informal updates to its cable-related needs and interests before each license negotiation.

Would any of the intervals identified in the timeline in your response to Question 6 change absent a full review of cable- related needs and interest.

Ans: In the absence of a full review, the review period (including publication of the consultant's report) and the approximate two-month period for the public hearing with its notices and report would not be required. However, we would still require time for an informal ascertainment. While much of the process can be conducted prior to the negotiations with the operator, deleting a more formal ascertainment process would not necessarily reduce the negotiation time by more than a month.

8. For communities that have begun the licensing process with Verizon, please provide a detailed timeline of events that have occurred to date. Please provide detail as to when the public hearing is held with respect to the date the proposal was first received.

Ans: The Town of Lexington advertised for applicants for cable television licenses on April 21, 2005. Verizon submitted an Initial Form 100 Proposal on May 13, 2005. The Cable Television Division granted the Town a 21-day extension to the 90-day timeframe for transmitting the Issuing Authority Report ("IAR"), and the Town transmitted the IAR to Verizon on September 1, 2005. Verizon submitted its Amended Application on October 14, 2005, and there followed many telephone conversations between the Town and the operator to set a mutually acceptable date for an initial meeting. The Town and Verizon started negotiations in early February 2006. However, the Town subsequently waited two and a half months for Verizon to respond to materials we sent them supporting the Town's proposed terms for a Final License. The Town and Verizon reached a tentative agreement on the most significant items on August 15, 2006. The Communications Advisory Committee has now presented the proposed terms of a Final License to the Issuing Authority, which approved scheduling a public hearing based on these terms and assumed resolution of a few remaining items. The Town is publishing announcements with appropriate advance notice for the hearing that will be conducted on September 21, 2006.